

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

JEFFERY YATES,

Plaintiff,

VS .

CITY OF MEMPHIS, et al.,

Defendants.

No. 04-2836-Ma/An

ORDER DENYING THE MOTION TO DISMISS FILED BY
DEFENDANTS BOYCE, HOLQUIN, AND WALLACE

Plaintiff Jeffery Yates, Tennessee Department of Correction prisoner number 220939, an inmate at the Whiteville Correctional Facility in Whiteville, Tennessee, filed a pro se complaint pursuant to 42 U.S.C. § 1983 on October 5, 2004 and paid the civil filing fee. On December 17, 2004, plaintiff filed a motion to amend or correct the complaint. The Court issued an order on January 25, 2005 that, inter alia, construed the December 17, 2004 filing as an amendment as of right, pursuant to Fed. R. Civ. P. 15(a), and directed the Clerk to issue process for, and the marshal to effect service on, the defendants. On May 17, 2005, defendants Felipe Boyce, Jonas Holquin, and Darriet Wallace filed an answer to the amended complaint and a motion to dismiss. That motion adopted the reasoning set forth in the renewed motion to

dismiss filed by the City of Memphis on April 26, 2005. Plaintiff filed a response in opposition to the motion on May 23, 2005.

The Court has denied the City's motion to dismiss. As this motion relies entirely on the City's motion, the motion to dismiss filed by defendants Boyce, Holquin, and Wallace is DENIED.

IT IS SO ORDERED this 19th day of January, 2006.

s/ SAMUEL H. MAYS, JR.
UNITED STATES DISTRICT JUDGE